

REMARKS

Claims 21-46 were examined and reported in the Office Action. Claims 21-46 are rejected. Claims 21, 31 and 39 are amended. Claims 21-46 remain.

Applicant requests reconsideration of the application in view of the following remarks.

I. 35 U.S.C. § 103

A. It is asserted in the Office Action that Claims 21-46 are rejected in the Office Action under 35 U.S.C. § 103(a), as being unpatentable over a John Cook newspaper article “Well-Funded Xpertsite.com Making Hay With Its Popular Answer Service” (“Cook”) in view of archived web pages of Keen.com (“Keen”). Applicant respectfully traverses the aforementioned rejection for the following reasons.

According to MPEP §2142

[t]o establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. (*In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)).

Further, according to MPEP §2143.03, “[t]o establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. (*In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).” “*All words in a claim must be considered in judging the patentability of that claim against the prior art.*” (*In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970), emphasis added.)

Applicant's amended claim 21 contains the limitations of

[a] system comprising: a communication device; and an intermediary facility; wherein text is transmitted from the

communication device by a user to a receiver through the intermediary facility for a fee paid by the user, ~~and~~ the receiver contact information is hidden from the communication device, and identification of the user is tracked for a return communication.

Applicant's amended claim 31 contains the limitations of

[a] method comprising: connecting a communication device with an intermediary facility; selecting a receiver to receive text from a user; transferring a fee paid by the user; and transmitting the text from the communication device to the receiver through the intermediary facility, wherein contact information of the receiver is hidden from the communication device, and identification of the user is tracked for a return communication.

Applicant's amended claim 39 contains the limitations of

[a] machine-accessible medium containing instructions that, when executed, cause a machine to: connect a communication device with an intermediary facility; transfer a fee from a user; and transmit text by the user from the communication device to a receiver account through the intermediary facility, wherein contact information of the receiver is hidden from the device, and identification of the user is tracked for a return communication.

In other words, Applicant's claimed invention allows a person to send text (e.g., email or postal mail message) to a celebrity or famous person where they ordinarily would never be able to do so due to privacy of the celebrity's or famous person's contact information (i.e., email address or mailing address). The user pays a fee for the privilege of being able to contact this person with a message. The identification of the user (e.g., email address or mail address) is maintained to return communication, such as a return item in the mail, email response, or confirmation.

It is asserted in the Office Action that Cook discloses connecting a communication device with an intermediary facility and mentions Keen.com as a competitor. On Keen.com, a user can pay a fee to receive an email from a person giving advice and send an email to a person giving advice without a fee through a personal account. When sending an email to an expert on Keen.com, the username of the person is known. In Applicant's claimed invention, however, the user does not receive information regarding the receiver and must pay a fee to send text to a receiver. The user's information is tracked (i.e., recorded) so the user can receive a return communication, such as a personalized message.

Further, Keen.com originally only dealt with receiving a telephone call from a user for a fee to talk with an expert. It is not known to Applicant when Keen.com added the functionality of sending an email for a fee to a user ("Paid Mail"). This seems to have been an afterthought and the date this feature was added may void Keen.com from being prior art regarding the Paid Mail aspect.

Therefore, even if the intermediary device in Cook is combined with Keen, the resulting invention would still not include all of Applicant's claimed limitations in claims 21, 31 and 39. Since neither Cook, Keen, and therefore, nor the combination of the two, teach, disclose or suggest all the limitations of Applicant's amended claims 21, 31 and 39, as listed above, Applicant's amended claims 21, 31 and 39 are not obvious over Cook in view of Keen since a *prima facie* case of obviousness has not been met under MPEP §2142. Additionally, the claims that directly or indirectly depend from amended claims 21, 31 and 39, namely claims 22-30, 32-38, and 40-46, respectively, would also not be obvious over Cook in view of Keen for the same reason.

Accordingly, withdrawal of the 35 U.S.C. § 103(a) rejections for Claims 21-46 are respectfully requested.

Respectfully submitted,

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